

MORRIS, NICHOLS, ARSHT & TUNNELL

1201 NORTH MARKET STREET
P.O. BOX 1347
WILMINGTON, DELAWARE 19899-1347

302 658 9200
302 658 3989 FAX

LESLIE A. POLIZOTI
302-575-7415
LPOLIZOTI@MNAT.COM

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BY ELECTRONIC FILING

The Honorable Sue L. Robinson, Chief Judge
United States District Court
844 North King Street
Wilmington, Delaware 19801

Re: *Red Hat, Inc. v. The SCO Group, Inc.*, C.A. No. 03-772-SLR

Dear Chief Judge Robinson:

Pursuant to this Court's April 6, 2004 Order, SCO respectfully submits this 90-day status report to apprise the Court of events that have transpired since our last update (on April 4, 2005) in *SCO v. IBM*, Case No. 03-294 (DAK), and *SCO v. Novell*, Case No. 04-139, which are pending before the Honorable Dale A. Kimball in the United States District Court for the District of Utah.

Pending Motions

On July 1, 2005, Judge Kimball granted SCO's Motion to Compel IBM to Produce Samuel J. Palmisano for Deposition, denied SCO's Motion for Leave to File a Third Amended Complaint, granted IBM's Motion for Entry of Order Limiting the Scope of Its Ninth Counterclaim, and set forth an Amended Scheduling Order with a trial date of February 26, 2007. SCO's December 23, 2004 Renewed Motion to Compel Discovery is still pending before the Court.

IBM's Motion for Reconsideration of the January 18, 2005 Order

As reported in our last update, IBM asked the Court to reconsider the portion of its January 18, 2005 Order requiring IBM to produce programmer-contribution information for the 3,000 individuals who made the most contributions and changes to the development of AIX and Dynix. In its motion papers, IBM also attempted to limit its other discovery obligations by arguing that it was not required to produce information concerning its Linux contributions.

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On April 19, 2005, United States Magistrate Judge Brooke Wells (re)ordered IBM to produce “the programmer’s notes, design documents, white papers, comments and notes, contact information, specific changes made to code, and all relevant non-privileged documents from the files of the 100 individuals who made the most contributions and changes to AIX and Dynix.” Order (4/19/05) at 4. Judge Wells contemplates that this preliminary production “will provide a basis for SCO to compare what is in the files of individual developers, versus what is contained in other materials produced by IBM,” so that SCO can identify, “in accordance with IBM’s representation,” additional developers from whose files SCO would like the same discovery. *Id.* at 4-5.

As to IBM’s attempt to limit its other discovery obligations, Judge Wells stated that “prior orders make it clear that IBM is to provide ALL non-public Linux contribution information.” *Id.* at 5 (emphasis in original).

G2’s Motion to Intervene and Order Re Unsealing of Documents

On April 28, 2005, the Court denied G2’s Motion to Intervene and Motion to Unseal Court’s File. However, to “minimize the risk of over-designating confidential documents,” Judge Kimball ordered the parties to review previously filed documents and notify the Court “as to which documents the parties agree may be unsealed.” Order (4/28/05) at 1-2.

On May 27, 2005, the parties submitted reports identifying documents they believed could be unsealed. IBM’s report identified numerous documents that SCO had filed under seal only because they referenced or were materials that IBM had insisted were confidential even after SCO had repeatedly complained that they did not contain any sensitive information.

Novell’s Second Motion to Dismiss

On June 27, 2005, Judge Kimball denied Novell’s second motion to dismiss SCO’s complaint, which alleges that Novell slandered SCO’s title to the UNIX and UnixWare copyrights.

SCO will submit its next 90-day update to the Court by October 3, 2005.

Respectfully,

/s/ Leslie A. Polizoti (#4299)

LAP/dal

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cc: Peter T. Dalleo, Clerk (By Hand)
Josy W. Ingersoll, Esquire (By Hand)
William F. Lee, Esquire (By Fax)
Edward Normand, Esquire (By Fax)

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